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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,383	02/24/2004	Ernest J. Storrer	INIS-1-1003	6508
25315 7590 11/21/2008 BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104				
EXAMINER				
LU, JIPING				
ART UNIT		PAPER NUMBER		
3743				
MAIL DATE		DELIVERY MODE		
11/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,383

Applicant(s)

STORRER ET AL.

Examiner

Jiping Lu

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Status

1. Claims 24-42 are now in the case. Claims 1-23 have been canceled.

Election/Restrictions

2. Claims 24-42 have been treated as elected invention of combination of mat and vacuum system a vacuum mat. The previous restriction between combination and subcombination remains.

Response to Amendment

3. The amendment to the claims filed on 9/8/08 does not comply with the requirements of 37 CFR 1.121(c) because applicant failed to provide proper status identifier for claims 1-23. Claims 1-23 should read as canceled. Correction is required.

Specification

4. The amendment filed 9/24/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the added paragraph of "The mat supports ... region 210" at line 9 of page 30 is new matter which is not supported by the originally filed specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 24-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed nonporous section and protrusions engagable with the structural surface for supporting the mat on the structural surface and permitting fluid flow between the lower surface of the mat and the structural surface in claims 24 and 33, the claimed protrusions with uniform depth and uniform spacing in claims 25-26, the claimed second section surrounds the first section in claim 28, the claimed housing including a sealing surface sealably engagable with the first and second structural surfaces in claim 35, and the claimed housing having a first sealing surface, a second sealing surface, a third sealing surface and a fourth sealing surface and the claimed locations among four sealing surfaces as claimed in claims 38-40 are new matters which are not supported by the originally filed specification.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 24-30, 32-36, 38-41 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the

elements. See MPEP § 2172.01. The omitted elements are: a vacuum source/means for removing unwanted moisture from a structure.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

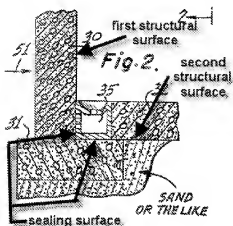
10. Claims 24-29, 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Komata (JP 08042148 A).

Komata shows an apparatus for removing unwanted moisture from a structure G including a structural surface C comprising a vacuum mat 7 having an upper surface (top side of 7) and a lower surface (underside of 7) and a first nonporous section (see Fig.1, left and right side of 7), the first section including an array of protrusions 3 engagable with the structural surface C for supporting the mat on the structural surface and permitting fluid flow between the lower surface of the mat 7 and the structural surface, a second section (center section of 7) having a vacuum port (not numbered, see Fig. 1) providing fluid communication through the mat, a vacuum source 8 attachable to the vacuum port which are arranged same as claimed. The protrusions 3 are of uniform depth and provide substantially uniform spacing between the lower surface of mat and the structural surface.

11. Claims 33-34 and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Mendola (U. S. Pat. 4,185,429).

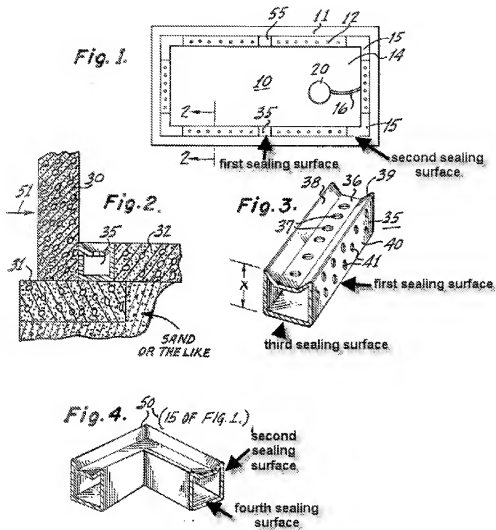
For claim 33, Mendola shows an apparatus for removing unwanted moisture from a structure, the structure including first and second substantially orthogonal structural surfaces 30,

31, the apparatus comprising a housing 35 including a sealing surface sealably engagable with the first and second structural surfaces (see Fig. 2 below).



For claim 36, Mendola shows an apparatus 15, 35, 55 for removing unwanted moisture from a structure 10, the apparatus comprising a housing having a first sealing surface, a second sealing surface, a third sealing surface and a fourth sealing surface which are arranged same as claimed (see Figs. 1-4 below).

With regard to claims 34 and 39, a hole formed in the bottom of a pipe such as 35 of Fig. 3 and connected to pipe 16 (col. 5, lines 29-31) is considered to be vacuum port.



Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
13. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komata (JP 08042148 A) in view of Wenander (U. S. Pat. 4,203,714).

The moisture removing apparatus of Komata as above includes all that is recited in claim 30 except for the second section surrounds the first section. Wenander shows a system for removing moisture comprising a vacuum mat 8 with a first section including an array of protrusions 9 and a second section having vacuum ports 7. The second section surrounds the first section (see Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the moisture removing apparatus of Komata to include a mat with second section surrounds the first section as taught by Wenander in order to pursue an intended use.

14. Claims 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komata (JP 08042148 A).

Komata discloses a moisture removing apparatus same as claimed except for using a housing for removing the water from a surface. However, it would have been obvious to one skill in the art at the time the invention was made to substitute a housing for the vacuum mat of Komata for removing the water from a surface since applicants admitted that embodiment of the claimed design Figs. 11, 12, 13A (directed towards claims 35-42) is obvious variation of the embodiment as claimed in Figs. 3A, 7, 8A, 9 (directed towards claims 24-34) to one ordinary skill in the art therefore the claims 35-42 and claims 24-34 are not separate and distinct (see last line of page one of the election filed on 8/15/05).

15. Claims 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429) in view of Forte (U. S. Pat. 3,426,487).

The apparatus of Mendola as above includes all that is recited in claims 37 and 42 except for a vacuum source attachable to the vacuum port. Forte teaches an apparatus for removing

unwanted moisture from a structure including a vacuum source 74 attachable to a vacuum port 40 for creating suction and efficiently and quickly remove water from the wall structure same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Mendola to include a vacuum source as taught by Forte in order to efficiently and quickly remove the water or moisture from the structure.

16. Claims 24-30, 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429).

Mendola discloses a moisture removing apparatus same as claimed except for using a vacuum mat for removing the water from a surface. However, it would have been obvious to one skill in the art at the time the invention was made to substitute a vacuum mat for the housing of Mendola for removing the water from a surface since applicants admitted that embodiment of the claimed design in Figs. 3A, 7, 8A, 9 (directed towards claims 24-30, 32-34) is obvious variation of the embodiment as claimed design in Figs. 11, 12, 13A (directed towards claims 35-36, 38-41) to one ordinary skill in the art therefore the claims 24-30, 32-34 and claims 35-36, 38-41 are not separate and distinct (see last line of page one of the election filed on 8/15/05).

17. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429) in view of Forte (U. S. Pat. 3,426,487).

18. The apparatus of Mendola as above includes all that is recited in claim 29 except for a vacuum source attachable to the vacuum port. Forte teaches an apparatus for removing unwanted moisture from a structure including a vacuum source 74 attachable to a vacuum port 40 for creating suction and efficiently and quickly remove water from the wall structure same as

claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Mendola to include a vacuum source as taught by Forte in order to efficiently and quickly remove the water or moisture from the structure.

Response to Arguments

19. Applicant's arguments filed 9/8/08 have been fully considered but they are not persuasive to overcome the rejections. First, claims fail to structurally define over the art. Claims are unpatentable over the prior art references as stated in the rejection above. Second, on pages 5-6 of the Remarks, the applicant disagrees with the examiner regarding the new matter added to the specification in the amendment of 9/24/07. It is the examiner's position that the new matter is not supported by the Figs. 11, 12, 13A and 13B of the original specification. This is not permissible. Therefore, the objection to the specification under 35 USC 132 remains. Third, on pages 6-7 of the Remarks, the applicant disagrees with the examiner regarding the new matter rejection under first paragraph of 35 USC 112. Again, it is the examiner's position that the new matter is not supported by the Figs. 11, 12, 13A and 13B of the original specification. Therefore, the rejection of claims under the first paragraph of 35 USC 112 remains. Fourth, on pages 6-7 of the Remarks, the applicant disagrees with the examiner regarding the rejection of claims under the second paragraph of 35 USC 112. It is the examiner's position that the claims are incomplete for omitting essential elements, such omission amounting to a gap between the elements. The omitted elements are: a vacuum source/means for removing unwanted moisture from a structure. See MPEP § 2172.01. Without the omitted element the claimed device would not work

completely. Fifth, on page 7 of the Remarks, the applicant disagrees with the examiner's rejection of claims 24-29 and 31-34 under 35 USC 102 Komata patent cannot anticipate the claims. It is the examiner's interpretation of the Komata patent that the Komata patent teaches the broadly claimed features. In particular, Komata shows an apparatus for removing unwanted moisture from a structure G including a structural surface C, a vacuum mat 7 having an upper surface and a lower surface and a first nonporous section, the first section including an array of protrusions 3 engagable with the structural surface C for supporting the mat on the structural surface and permitting fluid flow between the lower surface of the mat 7 and the structural surface, a second section having a vacuum port providing fluid communication through the mat, a vacuum source 8 attachable to the vacuum port which are arranged same as claimed. The protrusions 3 are of uniform depth and provide substantially uniform spacing between the lower surface of mat and the structural surface. Sixth, on pages 7-8 of the Remarks, the applicant disagrees with the examiner's rejection of claims 33-34 and 36-39 under 35 USC 102 Mendola patent cannot anticipate the claims. It is the examiner's interpretation of the Mendola patent clearly shows each and every claimed element as stated in the rejection above. The applicant simply failed to amend the broad claims presented. The examiner requests the applicant to point out from the broad claims if any structural limitations that the prior art references do not show or teach. Finally, on pages 9-10 of the Remarks, the applicant disagrees with the examiner's rejection of claims 24-42 under 35 USC 103 because, in essence, the independent claims are not anticipated by the prior art references. The added secondary references could not remedy the deficiencies of other claimed features. The examiner disagrees. It is noted that the applicant's

remarks on pages 9-11 regarding 35 USC 103 rejection contain no substantive arguments. Therefore, the rejection under 35 USC 103 remains unchanged.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KENNETH RINEHART can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jiping Lu/
Primary Examiner
Art Unit 3743

J. L.